

**The Arizona Coalition Against Domestic Violence
2005 Legislative Summary**

AzCADV Legislative Summary June 2005 47th Legislature 1 st Regular Session	
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AzCADV SYSTEMS ADVOCACY

Through our public policy efforts, AzCADV advocates for systemic change to more adequately address the needs of domestic violence victims in Arizona. We monitor policies, procedures and practices impacting domestic violence victims and service providers; advocate for system level changes to more appropriately address domestic violence issues, and provide information and education to improve the institutional response to domestic violence. Advocating for systemic change is a fundamental means to fulfill the agency’s mission.

This year we were able to get 4 out of 5 of our priority bills through the Legislature. We couldn’t have done it without you, our supporters and friends. Enjoy this summary; next year we’ll be back with your ideas on making Arizona a safer and healthier place for women, children and families.

**SPOUSAL RAPE REPEAL: A PHOENIX RISING
Bill Hart**

It was 1977. Jimmy Carter was in the White House; Fleetwood Mac’s *Rumours* topped the album charts and *Star Wars* stormed the box office. The Arizona Legislature, inspired by the second wave of American Feminism, crafted one of the toughest sexual assault laws in the country. It applied to both genders, required no corroboration, and made lack of consent the only threshold-a true “no means no” law. In 1983 Ronald Reagan was in Washington, Gandhi replaced war at the movies and Michael Jackson was multi-platinum with *Thriller*. Inspired by who knows what, the Arizona Legislature crafted a statute for an “affirmative defense” to sexual assault. Marriage became a defense for rape. In 1988 Reagan was still President, we all watched *Rain Man* and U2 awed us with *Rattle and Hum*. The Legislature, perhaps realizing the error of their ways decided to criminalize sexual assault of a spouse. But for some reason they made the penalty significantly less, and the elements for proof included “use of force or threatened use of force.” Apparently “no means no” in Arizona unless you’re married.

Seventeen years later, George W. Bush is in his second term and we’re in our second session of trying to repeal the spousal rape exemption. The big movie is about a woman boxer and Michael Jackson is going to court in his pajamas; fitting for the weird year it became. The Senator who held a reform bill in the Rules Committee last year made good on his word and sponsored

*Law
and
justice
are not
always
the
same
-Gloria
Steinem*

SB 1040- an outright repeal. Senator Robert Blendu should be thanked for his efforts to right an historical wrong. (rblendu@azleg.state.az.us). As he said in committee, “We don’t have spousal murder or spousal burglary, why do we have spousal rape? Rape is rape.” The Senate Judiciary Committee amended SB 1040 to retain a marital exemption with the force element, increase the penalty to that of sexual assault, and add an element regarding involuntary administration of drugs or alcohol. The sponsor and supporters reluctantly agreed. The amended bill passed the Senate overwhelmingly as 300 people rallied at *Stop Violence Against Women Day* outside on the Senate lawn.

Did I mention that things got weird? SB 1040 was assigned to the favorable House Human Services Committee. On March 10, they heard testimony from a victim, advocates, the Prosecutors Association and law enforcement who all supported the bill. Surreal questions ranged from how a change in law would impact reporting to exactly how many people it would affect. SB 1040 failed that day. Strange that Representative Warde Nichols cast the deciding vote, he a co-sponsor of a repeal the previous session and a known champion of victims’ rights. His explanation that SB 1040 was “too broad” and “went too far” rang curious with those who knew him to be of a different mindset.

How appropriate that someone who killed it this year resurrected a bill that was sponsored by someone who killed it last year. Yes, Mr. Nichols moved for reconsideration and offered a repeal. The Phoenix rose again. Mr. Nichols should be commended (wnichols@azleg.state.az.us). It passed the committee unanimously and then the House overwhelmingly (while 100 people gathered outside to commemorate Victims’ Rights Week). The Senate concurred with the changes and Governor Napolitano signed it into law on April 25th, the birthday of a brave survivor named Stella, the plaintiff in a lawsuit that challenges the constitutionality of the soon to be defunct statute 13-1406-01, Sexual Assault of a Spouse.

Thanks to Senator Blendu, Representative Nichols and Governor Napolitano.

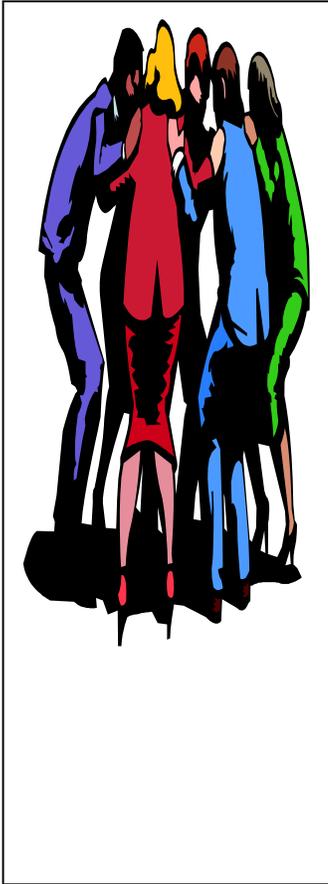
Bill Hart is the Executive Director of the Arizona Sexual Assault Network

DOMESTIC VIOLENCE FATALITY REVIEW TEAMS

Sandy Navarrete

Arizona has Child Fatality Review Teams, but there is nothing in place to review deaths related to domestic violence. Senator James Waring sponsored SB 1071, which allows for the creation of fatality review teams, so that local jurisdictions can review domestic violence related deaths. Teams review “cold cases” and identify any breakdowns between the agencies, with the intention of preventing future deaths.

The review teams will be made up of:



1. A representative from a local law enforcement agency.
2. A representative of a city, town, or county court system.
3. A representative of a city, town or county prosecutor's office.
4. A representative of a local domestic violence prevention program.
5. A victim of domestic violence.
6. A representative of a city, town, or county public health agency.
7. A representative of the office of the county medical examiner.
8. If children are involved, a representative of Child Protective Services who serves the area covered by the review team.
9. A representative of a statewide domestic violence coalition.

Additional interested parties may join the teams as well.

Senate Family Services Committee passed SB 1071 5-0. In the House, Human Services and Counties, Municipalities and Military Affairs Committees unanimously passed it. Both the Senate and the House floors sent it on its way and Governor Napolitano signed it on April 18th, 2005.

With the successful passage of SB 1071, Domestic Violence Fatality Review Teams will examine incidents of domestic violence related fatalities in order to gain a better understanding of those fatalities. The Attorney General's Office will compile the findings and prepare a report for the Governor, Chief Justice of the Supreme Court, the Speaker of the House of Representatives and the President of the Senate, to be submitted by December 31st of each year.

Thanks to Senator Waring for sponsoring SB 1071 and thanks to Governor Napolitano for signing it into law!

CONFIDENTIALITY OF VICTIMS RECORDS

Sandy Navarrete



Victims of domestic violence and stalking continuously face the fear that their perpetrators will discover their personal information. Currently, any information on an Order of Protection or Injunction Against Harassment is accessible by the public because it is a court record. SB 1086 would allow victims of domestic violence and stalking the same confidentiality protections that a peace officer, justice, judge, commissioner, public defender and prosecutor receive.

SB 1086, another effort of Senator Waring's, enables confidentiality of victim information. SB 1086 passed unanimously in the Senate Government Committee and in the House Government Reform and Government Finance Accountability Committee. SB 1086 passed in both the Senate and the House and Governor Napolitano signed it on April 11th, 2005.

With the successful passage of SB 1086, victims of domestic violence and stalking can request that the county recorder prohibit public access to their confidential information. Keeping this personal information confidential is crucial, so that victims can feel safe and be able to create a new future for themselves.

Thanks to Senator Waring for sponsoring SB 1086 and thanks to Governor Napolitano for signing it into law!

BULLIES
Dana Micheli



We have learned that violent behavior can begin in childhood, and not only in the home. Studies show that school bullies are more likely than other children to be involved in violent acts as adults. When Representative Bradley decided to sponsor HB 2368, AzCADV advocated on its behalf, because we believe that early intervention is crucial in dealing with the domestic violence crisis in our state.

In order to deal with this issue, this bill directs the governing board of each school district to have an anti-bullying policy in place. It does not dictate the exact policy each school must have, but it does set certain guidelines. For example, a child must be able to report bullying confidentially, and parents or guardians can submit written reports concerning school violence or intimidation. In addition, it requires school district employees to report bullying, and to investigate and document every suspected incident. Students found guilty are subject to disciplinary procedures.

HB 2368 had more “no votes” than any other bill the Coalition advocated for this session. Opponents to this bill argued communities should have local control over this issue. Those in favor of the bill countered that there is nothing more important than our children’s safety.

The Education: K-12 Committee heard the bill in the House. This Committee amended the bill to include protection of school districts and their employees from civil liability for any consequences resulting from the adoption and implementation of these policies, with the exception of gross negligence or intentional misconduct. The K-12 Committee then passed the bill and moved it to the Rules Committee, where it passed unanimously.

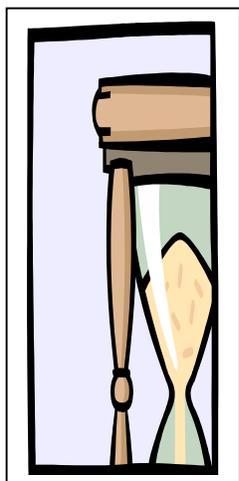
After passing on the House floor, the Senate K-12 Committee passed it by a vote of 6-1. After passing on the Senate floor, it went back to the House where it passed 43-12.

Governor Napolitano signed the bill into law on April 20, 2005. The new school year will begin with measures in place to make schools a safer place for Arizona children.

Thanks Representative Bradley and Governor Napolitano!

TENANT PROTECTION-OUT OF TIME

Dana Micheli



Last year the Coalition advocated on behalf of HB 2317, a bill that would prevent victims of domestic violence from being penalized for unintentional violations of “Crime-free, Drug-free” addendums. These addendums, a part of many rental agreements, often dictate that if someone calls law enforcement for any reason, eviction can occur. This posed a problem for women in need of police protection in a domestic disturbance, as she often had to make a choice between violence and homelessness. When HB 2317 passed during the 2004 legislative session, it was a great victory for domestic violence victims.

This year Representative Cheryl Chase attempted to take this one step further by sponsoring HB 2593, which was a technical correction to 2317. HB 2317 provides that if the victim calls 911, she cannot be evicted. But research shows that most often it is not the victim herself, but a neighbor or another person who actually makes the call. This technicality still made it possible for the victim to be evicted. HB 2593 said that anyone could call on the victim’s behalf.

The Commerce Committee first heard the bill in the House. It passed this committee with an amendment that preserved a landlord’s right to evict a tenant for other reasons, such as non-payment of rent.

Every legislative session, there are bills that slip through the procedural cracks. Unfortunately, this year 2593 was one of those bills. Although the House floor passed it 55-5, it never got a hearing in the Senate. We simply ran out of time. This issue will definitely be a priority for the next legislative session.

Thanks to Representative Chase and the co-sponsors!

BUDGETS, AKA THE ROLLER COASTER

Dale Wiebusch

We all know that domestic violence services are grossly under-funded here in Arizona. The State historically allocates about \$2.5 million a year towards programs. In contrast Minnesota, with approximately the same population, gives around \$22 million per year. So when we looked at increasing the State’s share, we knew we had an uphill battle.

In June of 2004, Bill Hart and I were in Washington for the annual National Network to End Domestic Violence (NNEDV) conference. While waiting for our return flight we happened to run into David Berns, Director of DES. We respectfully asked Mr. Berns to please consider an increase in funding in his next budget request to the Governor. He was receptive.

Fast forward to the fall; rumors abound that the money we want is in the budget. We meet with a variety of governmental officials, and find more and more support for the increase.



On January 10, 2005, the Governor releases her budget and there it is-an additional \$1.5 million for emergency shelter services. Joy in Mudville!

Budget negotiations in the Legislature are, to say the least, intriguing. In the House, majority leadership did most of their work behind closed doors. Perhaps if not for indoor smoking regulations, the rooms would still have the blue haze from cigars. One story is of a Democratic representative working late at night coming upon a group of Republicans sitting in a room only lit by a single table lamp. When she asked what they were doing, they confronted her on why she was there so late. So at the unveiling of the House budget, we had no idea of what was going to be there, and alas, the domestic violence money was gone.

The Senate worked differently. The Appropriations Committee dissected the budget openly. No less painful, but at least in front of everyone. Domestic violence money cut.

So the Legislature sends their budget to the Governor. If the reports have validity, she vetoed it in 20 minutes, and sent it back to the Legislative drawing board.

The \$1.5 returned quickly, perhaps because if you think about it, it's not a lot of money. The other plus was DES did a great job of delineating exactly how it would spend this money-immediately add 75 beds, serve 1950 women and children, with an average length of stay of 14 days. Legislators, especially the Appropriations people, like precision, not "perhaps."

So in the budget deal between the Governor and the Legislature, there it was, new money for the first time in four years. The stipulations include new beds only and reports from DES to the Legislature on the spending of the money. All in all an important (albeit modest) step to our ultimate goal-no one turned away from a shelter due to lack of space. Thanks Governor!

Memorable Quotes



I lived in Prescott for almost 6 years before moving to Phoenix to take the Director of Systems Advocacy position. When I ran into Senator Bennett I told him I had to move down here and couldn't commute like he does. His response "*Well Dale, I own an oil company.*"

From Senator Huppenthal in an Appropriations committee: "*If I were king, I'd abolish CPS and let families fend for themselves.*"

Representative Ted Downing, on the guns in bars bill: "*Firewater and firearms don't mix.*"

Also from Rep. Downing, on his amendment calling divorce a greater threat than gay marriage: "*If I saw my amendment pass out today, the next thing that would pass out would probably be me.*"

During a debate on a liquor bill regarding drive up windows and rights of the property owner. Senator Huppenthal said, *"When it comes to property rights and alcohol, things can get kind of blurry."*

Representative Jerry Weiers, on the motion picture tax incentive bill: *"I completely hate this bill. I absolutely can't stand it. And with that, I vote "aye."*

Representative Krysten Sinema, on why one-word answers aren't sufficient: *"As a recent graduate of law school and a new attorney, I'm compelled to give longer answers."*

Representative Jack Brown on the budget: *"Let's hurry up and get this stalemate started."*

And the answer to the Quiz from a few weeks ago-I drive the truck.

Cost of a gallon of gas - \$2.23

Miles to the Capitol from the Coalition - 7

Your support and enthusiasm - Priceless

1.5 million Thanks!



301 E. Bethany Home Road, Ste. C-194 Phoenix, AZ 85012
Phone: 602-279-2900 Fax: 602-279-2980 TTY 602-279-7270

Email: acadv@azcadv.org

Website: www.azcadv.org